

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 713

AN ACT

To repeal section 304.820, RSMo, and to enact in lieu thereof one new section relating to the operation of motor vehicles while using electronic devices, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 304.820, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.820, to read as follows:

304.820. 1. [Except as otherwise provided in this section, no person twenty-one years of age or younger operating a moving motor vehicle upon the highways of this state shall, by means of a hand-held electronic wireless communications device, send, read, or write a text message or electronic message.

2.] As used in this section, the following terms mean:

(1) "Commercial motor vehicle", the same meaning as is ascribed to such term under section 302.700;

(2) "Electronic message", a self-contained piece of digital communication that is designed or intended to be transmitted via an electronic wireless communication device, including but not limited to electronic mail, text messages, instant messages, or commands or requests to access an internet site;

(3) "Electronic wireless communication device", includes but is not limited to cell phones, personal digital assistants, electronic devices with mobile data access, laptop computers, pagers, broadband personal communication devices, electronic games, or portable computing devices. "Electronic wireless communication device" shall not include

global navigation satellite system receivers used for positioning, emergency notification, or navigation purposes, or two-way or citizens band radio services;

(4) "Hands-free electronic wireless communication device", an electronic wireless communication device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such device, by which a user engages with the device without the use of either hand; provided, however, this definition shall not preclude the use of either hand merely to activate, deactivate, or initiate a function of the device;

(5) "Highway", any public thoroughfare for vehicles, including state roads; county roads; and public streets, avenues, boulevards, parkways, or alleys in any municipality;

(6) "Noncommercial motor vehicle", the same meaning as is ascribed to such term under section 302.700;

(7) "Operate", to physically drive or control the movement of a motor vehicle, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise. A person is not operating a motor vehicle for purposes of this section when the vehicle has pulled over to the side of or off a highway and has stopped in a location where it can safely remain stationary.

2. Except as otherwise provided in this subsection or subsection 5 of this section, no person shall operate a noncommercial motor vehicle upon the highways of this state while using an electronic wireless communication device. Prohibited uses include but are not limited to: reading, composing, viewing, or posting any electronic message; initiating, receiving, or conducting a conversation; or manually entering data into any electronic wireless communication device. A person may operate a noncommercial

motor vehicle upon the highways of this state while using a hands-free electronic wireless communication device, provided that the operator is not holding the hands-free electronic wireless communication device in his or her hand or hands, and provided that the operator does not divert his or her attention from the lawful operation of the motor vehicle. The provisions of this subsection shall not prohibit the use of either hand merely to activate, deactivate, or initiate a function of a hands-free electronic wireless communication device while operating a noncommercial motor vehicle.

3. Except as otherwise provided in subsection 5 of this section, no person shall operate a commercial motor vehicle upon the highways of this state while using a hand-held mobile telephone.

[3.] 4. Except as otherwise provided in subsection 5 of this section, no person shall operate a commercial motor vehicle upon the highways of this state while using [a] an electronic wireless [communications] communication device to send, read, or write a text message or electronic message, unless such message is sent, read, or written by touching a single button and the driver remains seated and is restrained by a seat belt as required by law.

[4.] 5. The provisions of [subsection 1 through subsection 3] subsections 2 to 4 of this section shall not apply to a person operating:

(1) An authorized emergency vehicle, as such term is defined in section 304.022; or

(2) A [moving] motor vehicle while using [a hand-held] an electronic wireless [communications] communication device to:

(a) [Report illegal activity;

(b) Summon medical or other emergency help;

(c) Prevent injury to a person or property; or

(d)] Contact emergency services; or

(b) Relay information between a transit or for-hire motor vehicle operator and that operator's dispatcher, [in which] when the device is [permanently] affixed to the vehicle.

[5. Nothing in this section shall be construed or interpreted as prohibiting a person from making or taking part in a telephone call, by means of a hand-held electronic wireless communications device, while operating a noncommercial motor vehicle upon the highways of this state.

6. As used in this section, "electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between hand-held electronic wireless communication devices. "Electronic message" includes, but is not limited to, electronic mail, a text message, an instant message, or a command or request to access an internet site.

7. As used in this section, "hand-held electronic wireless communications device" includes any hand-held cellular phone, palm pilot, blackberry, or other mobile electronic device used to communicate verbally or by text or electronic messaging, but shall not apply to any device that is permanently embedded into the architecture and design of the motor vehicle.

8. As used in this section, "making or taking part in a telephone call" means listening to or engaging in verbal communication through a hand-held electronic wireless communication device.

9. As used in this section, "send, read, or write a text message or electronic message" means using a hand-held electronic wireless telecommunications device to manually communicate with any person by using an electronic message.

Sending, reading, or writing a text message or electronic message does not include reading, selecting, or entering a phone number or name into a hand-held electronic wireless communications device for the purpose of making a telephone call.

10.] 6. A violation of this section shall be deemed an infraction [and shall be] punishable by a fifty-dollar fine. A violation of this section while operating a motor vehicle in a work zone, as such term is defined in section 304.580, when highway workers, as such term is defined in section 304.580, are present, or in an area designated as a school zone and marked in any way that would alert a reasonably prudent driver to the presence of such school zone, shall be deemed an infraction punishable by a one-hundred-dollar fine. A violation of subsection 2 of this section shall not be deemed a moving violation for purposes of point assessment under section 302.302. A violation of subsection 3 or 4 of this section shall be deemed a serious traffic violation, as such term is defined in section 302.700, for purposes of commercial driver's license disqualification under section 302.755.

[11.] 7. The state preempts the field of regulating the use of [hand-held] electronic wireless [communications] communication devices [in] by the the operators of motor vehicles, and the provisions of this section shall supercede any local laws, ordinances, orders, rules, or regulations enacted by a county, municipality, or other political subdivision to regulate the use of [hand-held] electronic wireless communication devices by the operator of a motor vehicle.

[12. The provisions of this section shall not apply to:

(1) The operator of a vehicle that is lawfully parked or stopped;

(2) Any of the following while in the performance of their official duties: a law enforcement officer; a member of a fire department; or the operator of a public or private ambulance;

(3) The use of factory-installed or aftermarket global positioning systems (GPS) or wireless communications devices used to transmit or receive data as part of a digital dispatch system;

(4) The use of voice-operated technology;

(5) The use of two-way radio transmitters or receivers by a licensee of the Federal Communications Commission in the Amateur Radio Service.】

8. Notwithstanding any provision of law to the contrary, no person under eighteen years of age, and no person with an instruction permit or intermediate license regardless of age, shall use an electronic wireless communication device, whether hands-free or not, while operating a motor vehicle on the highways of this state, except to contact emergency services.